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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) No. CR 07-0568 MHP

Plaintiff, )

v. )

MARK JACOBSON, )

Defendant. )

PARTIES' JOINT REQUEST TO CONTINUE  
SENTENCING DATE AND ~~[PROPOSED]~~  
ORDER

It is hereby stipulated by and between counsel for the United States, Assistant U.S. Attorney Kyle F. Waldinger, and counsel for defendant Mark Jacobson, Thomas Carlucci, that, subject to the Court's approval, the sentencing hearing presently set for September 28, 2009, be continued and set for sentencing hearing on May 17, 2010, at 9:00 a.m. The United States has previously determined from reviewing the Court's publicly posted scheduling information that the Court is currently available for a hearing on that date. The assigned probation officer, Constance Cook, also has been consulted with respect to this date and has indicated that she is available on that date.

The defendant Mark Jacobson pled guilty pursuant to a plea agreement on September 24, 2007, to one count of conspiracy to misappropriate, receive, possess, and transmit trade secrets, gain unauthorized access to a protected computer, exceed authorized access to a

1 protected computer, and traffic in a password allowing unauthorized access to a protected  
 2 computer, in violation of 18 U.S.C. §§ 1832(a)(5) and 371. The case was referred to the  
 3 Probation Office for a presentence report. The plea agreement also includes standard terms of  
 4 cooperation.

5 In light of continuing cooperation under the terms of the plea agreement, the parties  
 6 jointly request that the sentencing status hearing on September 28, 2009, be continued for a  
 7 sentencing hearing on May 17, 2010. Additional time is needed for the defendant to complete  
 8 his cooperation with the government. Specifically, charges have now been filed against an  
 9 alleged co-conspirator of the defendant, David Nosal. The Nosal case is numbered CR 08-0237  
 10 MHP. The Nosal case is set to proceed to trial on February 9, 2010. The defendant Jacobson is  
 11 expected to testify in that trial. Because Mr. Jacobson will be required to testify at trial, his  
 12 cooperation with the government's investigation is not yet complete.

13 For all of these reasons, the parties jointly request that this Court vacate the sentencing  
 14 hearing presently set for September 28, 2009, and set a sentencing hearing for May 17, 2010, at  
 15 9:00 a.m. In addition, the parties jointly request that the due dates for the presentence report be  
 16 calculated using the new sentencing date.

17 SO STIPULATED.

18 Dated: August \_\_, 2009

SCOTT N. SCHOOLS  
 Acting United States Attorney

Kyle F. Waldinger

Digitally signed by Kyle F. Waldinger  
 DN: cn=Kyle F. Waldinger, o=United States  
 Attorney's Office, ou,email=kyle.  
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 Date: 2009.08.11 16:56:15 -0700

KYLE F. WALDINGER  
 Assistant United States Attorney

22 SO STIPULATED.

23 Dated: August 11, 2009

  
 THOMAS CARLUCCI  
 Attorney for defendant Mark Jacobson

~~PROPOSED~~ ORDER

GOOD CAUSE APPEARING,

IT IS ORDERED that the sentencing status hearing presently set for September 28, 2009, be continued to May 17, 2010, at 9:00 a.m. The final presentence report should be disclosed two weeks prior to the sentencing date.

Dated this 13th day August, 2009

